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San Francisco & New York

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January 28, 2021

VIA FACSIMILE

The Honorable Frederic Block
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: Request to Strike – *Pasik v. Boon Technologies LLC, et al*; Case No. 19-2357-FB (E.D.N.Y.)

Dear Judge Block:

We are counsel of record for Defendants in the above-referenced matter, which was dismissed with prejudice on April 2, 2020.

I write in connection with former Magistrate Judge James Orenstein's October 15, 2020 Order (Dkt. No. 53, the "Vacatur Order") vacating his own prior decision revoking the *pro hac vice* admission of my law colleagues Messrs. Matt Borden and David Kwasniewski. The Vacatur Order properly withdrew the Court's improvident decision to rescind *pro hac vice* admission; however, the accompanying decision included what we believe are unnecessary and inaccurate comments regarding the professionalism of my colleagues and their status as members of the legal community. Those comments could result in difficulty for the firm to carry out its work, including most importantly, pro bono engagements around the country. As shown below, in connection with client work, but also in connection with its extensive pro bono litigation, BraunHagey appears in many jurisdictions, and frequently must do so with the permission of the court. We respectfully request modest relief to address this issue.

As context, our firm is a leading commercial boutique with almost 30 attorneys in San Francisco and New York. In addition to our trial practice, the firm devotes substantial resources to a unique Impact Program which advocates for the underserved and advances the public welfare through high profile legal cases. Mr. Borden (<https://www.braunhagey.com/matt-borden>), one of the attorneys addressed in the Vacatur Order, helps lead this practice. Through it, the firm has obtained groundbreaking results for some of society's most vulnerable populations in the areas of civil rights, the environment, eldercare, and immigration. Most recently, Mr. Borden helped obtain an injunction protecting dozens of journalists and legal observers from attack by federal agents in Portland, Oregon, which the Ninth Circuit later upheld. Mr. Borden also recently obtained a published Ninth Circuit decision confirming the right of elderly nursing home residents to force the State of California to regulate nursing homes to prevent "resident dumping" at thousands of facilities throughout the State.

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Mr. Borden also helps lead the firm's commercial litigation practice. He is a co-founding partner of the firm and was a law clerk to the Honorable William Alsup of the Northern District of California. He regularly has been called upon to serve as Special Master in that District. Mr. Kwasniewski (<https://www.braunhagey.com/david-kwasniewski>) is an associate at the firm who graduated *magna cum laude* from Cornell Law School and has an impeccable record as legal counsel. Each of these individuals is a member in good standing of the California bar, has never been the subject of any sanction, discipline, or other reprobation, and wishes to ensure their continued ability to effectively represent clients in this and other Districts.

Because the Vacatur of the pre-existing Minute Order contains gratuitous and factually inaccurate commentary which needlessly disparages counsel, we respectfully move that the Court order the ECF clerk (1) strike the entirety of the Vacatur Order, except as to the relief granted (namely, rescinding the Court's prior January 16, 2020 Minute Order), and (2) strike the relevant portions of the improper, and now overruled, underlying January 16, 2020 Minute Order. We have met and conferred with Plaintiff's counsel Mark Schlachet regarding the relief sought in this letter.

I am available at the Court's convenience should a formal or informal status conference be helpful for Your Honor's consideration.

Respectfully submitted,

Jonathan Kortmansky

Cc: Plaintiff's Counsel Mark Schlachet, Esq. (Via email: markschlachet@me.com)